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SENATE BILL 2775 By
McNally

HOUSE BILL 2746
By Kisber

AN ACT to amend Tennessee Code Annotated, Title 38; Title 39;
Title 56; Title 63; Title 68 and Title 71, relative to fraud
and related offenses concerning health care.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 71-5-182(a)(1), is amended by
deleting the subdivision in its entirety and by substituting instead the following:

(1) Any person who:

(A) Presents, or causes to be presented, to the state or its agents, including, but not limited to, a health maintenance organization participating in the TennCare program, a claim for payment under the Medicaid program knowing such claim is false or fraudulent;

(B) Makes, uses, or causes to be made or used, a record or statement to get a false or fraudulent claim under the Medicaid program paid for or approved by the state or its agents, including, but not limited to, a health maintenance organization participating in the TennCare program, knowing such record or statement is false;

(C) Conspires to defraud the state or its agents, including, but not limited to, a health maintenance organization participating in the TennCare program, by getting a claim allowed or paid under the Medicaid program knowing such claim is false or fraudulent; or

(D) Makes, uses, or causes to be made or used, a record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the state or its agents, including, but not limited to, a health maintenance organization participating in the TennCare program, relative to the Medicaid program, knowing such record or statement is false;

is liable to the state for a civil penalty of not less than five thousand dollars (\$5,000) and not more than ten thousand dollars (\$10,000), plus three (3) times the amount of damages which the state sustains because of the act of that person.

SECTION 2. Tennessee Code Annotated, Section 71-5-186(a), is amended by deleting the subsection in its entirety and by substituting instead the language:

(a) It is an offense if any person makes or presents to any person, department, agency or agent of the state, any claim upon or against the state, or any department, agency or agent thereof, knowing such claim to be false, fictitious, or fraudulent. For the purposes of this section, "agent" includes, but is not limited to, a health maintenance organization participating in the TennCare program.

SECTION 3. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following as a new section to be appropriately designated:

Section _____. (a) Each health maintenance organization participating in the TennCare program shall maintain a fraud control unit. Each such health maintenance organization's fraud control unit shall investigate fraud related to the TennCare program related to the organization and the unit shall outline specific procedures to:

(A) Prevent, detect and investigate all forms of false claims or medicaid fraud, including fraud involving the organization's employees or agents; fraud resulting from misrepresentations in the application or renewal of enrollment; claims fraud; and security of the organization's data processing system;

(B) Educate appropriate employees on fraud detection and the organization's anti-fraud plan;

(C) Provide for the hiring of or contracting for fraud investigators; and

(D) Report false claims and Medicaid fraud to appropriate law enforcement and regulatory authorities in the investigation and prosecution of such fraud.

(b) The bureau of TennCare shall require that each contract with a health maintenance organization participating in the TennCare program maintain the fraud control unit required by subsection (a).

SECTION 4. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following as a new section to be appropriately designated:

Section _____. The program integrity unit of the bureau of TennCare is authorized to investigate fraud by enrollees in and applicants to the TennCare program. Upon probable cause of fraud being established, the unit may issue subpoenas for the attendance of witnesses and the production of documents and records. The unit may also administer oaths. The unit shall refer cases involving fraud to the appropriate law enforcement authorities for prosecution.

SECTION 5. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following as a new section to be appropriately designated:

Section _____. (a) It is an offense for a person, including, but not limited, to a corporation, to solicit, direct, aid, or attempt to aid another person to commit a violation of Section 71-5-186 when such person acts with knowledge, recklessness or criminal negligence to either (1) promote or assist the commission of a violation of Section 71-5-186, or (2) to benefit in the proceeds or results of such violation.

(b) A violation of this section shall be punished as an offense one class below the offense facilitated under Section 71-5-186 by the person so charged.

SECTION 6. The commissioner of health is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 8. This act shall take effect July 1, 2000, the public welfare requiring it.